

Page 1 of 2

RESPONDENT NAME: SAKINA, INC. DBA EXPRESS LANE 26

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 2603 County Road 403, Pearland, Brazoria County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 6, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Waste Enforcement Section, MC-128, (512) 239-5690

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Rafique W. Khowaja, President, Sakina, Inc, 1206 Ellcreek Court, Sugar Land, Texas 77479-5928

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 8, 2006</p> <p>Date of NOE Relating to this Case: August 14, 2006</p> <p>Background Facts: The case was referred to the Litigation Division on January 9, 2007. EDRPs were filed November 5, 2007, and April 2, 2008, but service was not achieved. More recent alternate addresses were discovered, and the EDRP was re-filed on October 23, 2008. According to the return receipt "green card," the Respondent received notice of the EDRP on October 25, 2008, as evidenced by the signature on the card. The Respondent failed to answer the EDRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent no longer owns or operates the Facility.</p> <p>PST:</p> <p>1. Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances, failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), failed to provide release detection for the piping associated with the UST system, and failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(1)(A), (b)(2)(A)(i), and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>2. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection within three to six months after installation and at a subsequent frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)]</p>	<p>Total Assessed: \$5,100</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$5,100</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1. The cathodic protection system was inspected and tested on June 13, 2006, by a NACE certified corrosion protection specialist.</p> <p>2. The Executive Director recognizes that the Respondent no longer owns or operates the Facility as of July 6, 2006.</p>



Penalty Calculation Worksheet (PCW)

DATES Assigned 21-Aug-2006
PCW 05-Jan-2007 Screening 02-Sep-2006 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Sakina, Inc. dba Express Lane 26
Reg. Ent. Ref. No. RN103052320
Facility/Site Region 12-Houston Major/Minor Source Minor Source

CASE INFORMATION

Enf./Case ID No. 31366 No. of Violations 2
Docket No. 2006-1770-PST-E Order Type 1660
Media Program(s) Petroleum Storage Tank
Multi-Media EC's Team Enforcement Team 7
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2% Enhancement Subtotals 2, 3, & 7 \$100

Notes Enhancement for one NOV with non-similar violations.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$94
Approx. Cost of Compliance	\$2,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$5,100

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$5,100

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$5,100

DEFERRAL 0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

This is not an expedited case.

PAYABLE PENALTY \$5,100

Screening Date 02-Sep-2006

Docket No. 2006-1770-PST-E

PCW

Respondent Sakina, Inc. dba Express Lane 26

Policy Revision 2 (September 2002)

Case ID No. 31366

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103052320

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History Notes

Enhancement for one NOV with non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 02-Sep-2006

Docket No. 2006-1770-PST-E

PCW

Respondent Sakina, Inc. dba Express Lane 26

Policy Revision 2 (September 2002)

Case ID No. 31366

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103052320

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 334.50(a)(1)(A), (b)(1)(A), (b)(2)(A)(i), and (d)(1)(B)(ii)

Secondary Rule Cite(s)

Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide release detection for the piping associated with the UST system. Failure to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 8, 2006 investigation date to the September 2, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$94

Violation Final Penalty Total \$2,550

This violation Final Assessed Penalty (adjusted for limits) \$2,550

Economic Benefit Worksheet

Respondent Sakina, Inc. dba Express Lane 26
Case ID No. 31366
Reg. Ent. Reference No. RN103052320
Media [Statute] Petroleum Storage Tank
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$1,500	08-Jun-2006	30-Apr-2007	0.9	\$4	\$89	\$94
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide release detection for the UST system and the piping associated with the UST system, and reconcile inventory control records. Date required is the investigation date and the final date is the date the respondent is projected to come into compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal	0.0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0
Supplies/equipment	0.0	\$0	\$0	\$0
Financial Assurance [2]	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0	\$0	\$0	\$0
Other (as needed)	0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,500

TOTAL \$94

Screening Date 02-Sep-2006

Docket No. 2006-1770-PST-E

PCW

Respondent Sakina, Inc. dba Express Lane 26

Policy Revision 2 (September 2002)

Case ID No. 31366

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103052320

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(4)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(d)

Violation Description

Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection within three to six months after installation and at a subsequent frequency of at least once every three years.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm		
Release		Major	Moderate	Minor
OR	Actual			
	Potential	X		

Percent 25%

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor

Percent

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

		daily
mark only one use a small x	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the June 8, 2006 investigation date to the June 13, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,550

This violation Final Assessed Penalty (adjusted for limits) \$2,550

Economic Benefit Worksheet

Respondent Sakina, Inc. dba Express Lane 26

Case ID No. 31366

Reg. Ent. Reference No. RN103052320

Media [Statute] Petroleum Storage Tank

Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	08-Jun-2006	13-Jun-2006	0.0	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to inspect and test the cathodic protection system for three USTs. Date required is the investigation date and the final date is the date the respondent came into compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal	0.0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0
Supplies/equipment	0.0	\$0	\$0	\$0
Financial Assurance [2]	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0	\$0	\$0	\$0
Other (as needed)	0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$1

Compliance History

Customer/Respondent/Owner-Operator:	CN601592439	Sakina, Inc.	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN103052320	EXPRESS LANE 26	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION			36377
Location:	2603 COUNTY ROAD 403, PEARLAND, TX, 77584		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	October 02, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 02, 2001 to October 02, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Greimel Phone: (512) 239-5690

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 08/11/2006 (482447)
- 2 09/27/2002 (249213)
- 3 04/23/2003 (249227)
- 4 08/14/2006 (483926)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/11/2006 (482447)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)[G]

Description: Failure to have a Facility Representative and/or employees trained.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)[G]

Description: Failure to have annual and/or triennial testing successfully conducted.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)[G]

Description: Failure to post operating instructions on each dispenser.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(I)

Description: The vacuum unit was not operating and functioning properly as required

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SAKINA, INC. DBA EXPRESS
LANE 26,
RN103052320**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2006-1770-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Sakina, Inc. dba Express Lane 26 ("Sakina").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Sakina owned and operated a convenience store with retail sales of gasoline located at 2603 County Road 403, Pearland, Brazoria County, Texas (the "Facility").
2. Sakina's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Sakina's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During an inspection conducted on June 8, 2006, a TCEQ Houston Regional Office investigator documented that Sakina:
 - a. Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances, failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), failed to provide release detection for the piping associated with the UST system, and failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons; and

- b. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection within three to six months after installation and at subsequent frequency of at least once every three years.
4. Sakina received notice of the violations on or about August 19, 2006.
5. The Executive Director recognizes that the cathodic protection system was inspected and tested on June 13, 2006, and the system passed, and that Sakina no longer owns or operates the Facility as of July 6, 2006.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Sakina, Inc. dba Express Lane 26" (the "EDPRP") in the TCEQ Chief Clerk's office on October 23, 2008.
7. By letter dated October 23, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Sakina with notice of the EDPRP. According to the return receipt "green card," Sakina received notice of the EDPRP on or before October 25, 2008, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Sakina received notice of the EDPRP, provided by the Executive Director. Sakina failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Sakina is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Sakina failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances, failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), failed to provide release detection for the piping associated with the UST system, and failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(1)(A), (b)(2)(A)(i), and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a) and (c)(1).
3. As evidenced by Finding of Fact No. 3.b., Sakina failed to have the cathodic protection system inspected and tested for operability and adequacy of protection within three to six

months after installation and at a subsequent frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d).

4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Sakina with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 8, Sakina failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Sakina and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Sakina for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of five thousand one hundred dollars (\$5,100.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Sakina is assessed an administrative penalty in the amount of five thousand one hundred dollars (\$5,100.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The imposition of this administrative penalty and Sakina's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Sakina, Inc. dba Express Lane 26; Docket No. 2006-1770-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Sakina.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Sakina shall be made in writing to the Executive Director. Extensions are not effective until Sakina receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Sakina if the Executive Director determines that Sakina has not complied with one or more of the terms or conditions in this Order.
6. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
7. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF TRACY CHANDLER

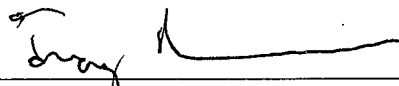
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Tracy Chandler. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Sakina, Inc. dba Express Lane 26" (the "EDPRP") with the Office of the Chief Clerk on October 23, 2008.

I sent the EDPRP to Sakina at its last known address on October 23, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Sakina received notice of the EDPRP on or before October 25, 2008, as evidenced by the signature on the card.

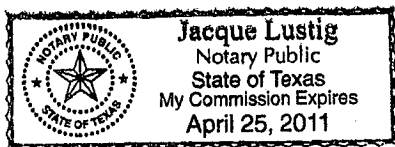
More than 20 days have elapsed since Sakina received notice of the EDPRP. Sakina failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

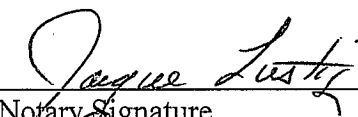


Tracy Chandler
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tracy Chandler, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 6th day of February, A.D., 2009.





Notary Signature